

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED CLERK'S OFFICE

2009 NOV 19 A 9:34

DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

Civil Action No. 8:09-2164-SB

William Howard Rutland, III, #09030325,
a/k/a William H Rutland, III,

Plaintiff,


v.

Sargent Rosemary Sanders, Berkeley
County Sheriff's Office - Detention Center,

Defendant.

ORDER

This matter is before the Court upon the Plaintiff's pro se complaint, filed pursuant to 42 U.S.C. § 1983. In his complaint, the Plaintiff alleges that the Defendant, a correctional officer at the Berkeley County Detention Center, "siphons off" his funds for stationary, envelopes, and postage. He claims that he prepared a letter that required only a two-cent stamp but that he was charged sixty cents. The Plaintiff requests \$405,000.00 in damages.

 The record contains a report and recommendation of a United States Magistrate Judge ("R&R"), which was made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d). In the R&R, which was filed on September 8, 2009, Magistrate Judge Bruce Howe Hendricks recommends that the Court dismiss the Plaintiff's complaint without prejudice and without issuance and service of process. Specifically, the Magistrate Judge notes that deprivations of personal property, including negligent deprivations, do not support an action for damages under 42 U.S.C. § 1983. Further, the Magistrate Judge notes that the Plaintiff's claim may be cognizable under the South Carolina Tort Claims Act ("SCTCA") but that a claimant must file an administrative claim before proceeding under

the SCTCA. In addition to recommending that the Court dismiss the Plaintiff's complaint, the Magistrate Judge also recommends that the Court deem the dismissal a "strike" pursuant to the "three strikes rule" of 28 U.S.C. § 1915(e)(2) and (g).


The Plaintiff filed objections to the R&R as well as a motion to amend his complaint,¹ wherein he merely rehashes his complaints and asks the Court to appoint him counsel and provide him copies with the more than 13 lawsuits he has filed. Nowhere in his objections does the Plaintiff point to any legal or factual error in the R&R, and after review, the Court finds that the Magistrate Judge correctly summarized the facts and applied the appropriate legal standards. Accordingly, the Court adopts the R&R and incorporates it herein. Based on the foregoing, it is hereby

ORDERED that the R&R (Entry 8) is adopted; the Plaintiff's objections (Entry 11) are overruled; and the Plaintiff's motion to amend (Entry 13) is denied. The Plaintiff's complaint is dismissed without prejudice and without issuance and service of process, and this dismissal is deemed a "strike" for purposes of the "three strikes rule" of 28 U.S.C. § 1915(e)(2) and (g).

AND IT IS SO ORDERED.



The Honorable Sol Blatt, Jr.
Senior United States District Judge



November 18, 2009
Charleston, South Carolina

¹ To the extent that the Plaintiff attempts to raise different claims against the Defendant in his amended complaint, the Court notes that the Plaintiff has other pending lawsuits against this particular Defendant, wherein he raises substantially similar claims.